



ZACHARY W. CARTER  
Corporation Counsel

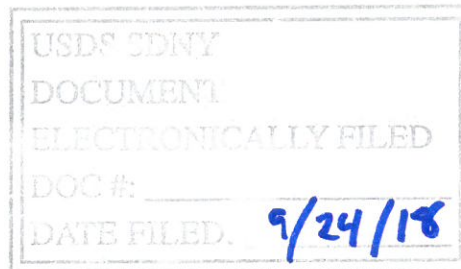
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September 21, 2018

**BY ECF**

Honorable Richard J. Sullivan  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007



Re: Michael Underwood v. TAFSC Housing Development Fund  
Corporation et. al  
18 Civ. 06664 (RJS)

Dear Judge Sullivan:

I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, attorney for Defendant City of New York ("Defendant City") in the above-referenced alleged action. I write to respectfully request permission to annex two exhibits to my forthcoming pre-motion letter, as per the Court's Individual Rules at 2.A. If the Court finds attaching the exhibits acceptable, Defendant City intends to use the exhibits in order to establish that Defendant City should be dismissed from this Complaint since the City does not own the building where Plaintiff ostensibly worked, nor does Defendant City control Plaintiff's employment.

Specifically, Defendant City requests permission to attach the Final Award Agreement ("FAA") as Exhibit "A" to its letter. Plaintiff referenced this document in his Complaint, ECF Docket No. 1, ¶ 11. Plaintiff alleged that "Defendant [City] controlled the building in which Plaintiff worked for Defendants and Plaintiff's employment herein, through its terms and conditions for the use and operation of the building as also set forth in the [FAA] . . ." and noted in a footnote that "the FAA is incorporated herein" but did not attach the FAA to his filings. The FAA is a publicly available document as a copy has been e-filed in the related New York State Supreme Court matter New York State Homeless Housing and Assistance Corporation v. TAFSC Housing Development Fund Corporation et. al., Index No. 24530/2017E. Defendant City anticipates attaching the e-filed version.

Defendant City further requests permission to attach a Deed dated April 25, 2003 from grantor City of New York to grantee TAFSC Housing Development Fund Corporation

regarding the building at issue, 1061 Hall Place, Bronx, NY 10459. This document is also publicly available via the Automated City Register Information System ("ACRIS").

City Defendant respectfully asserts that the Court may consider this material if we are permitted to attach it to our anticipated pre-motion to dismiss letter, because the Court may consider, inter alia, documents that are referenced in the Complaint and matters to which judicial notice may be taken. See Chambers v. Time Warner, Inc., 282 F.3d 147, 153 (2d Cir. 2002).

Thank you for your consideration of this request.

Respectfully submitted,

/s/ Elizabeth H. Robins

Elizabeth H. Robins

Assistant Corporation Counsel

cc: **BY E-FILE**

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IT IS HEREBY ORDERED that Defendant City of New York may file the two documents described in its letters as attachments to its forthcoming pre-motion letter. Defendant is advised that future requests (such as, for example, requests for extensions of time) shall indicate whether it has consulted with Plaintiff regarding its request and shall indicate whether Plaintiff has consented.

SO ORDERED

Dated:

9/24/18

RICHARD J. SULLIVAN  
U.S.D.J.